

MICHAEL N. FEUER, City Attorney, SBN 111529
MARY CLARE MOLITOR,
Chief, Crim. & Special Lit. Branch, SBN 82404
ARTURO A. MARTINEZ,
Deputy Chief, Safe Neighborhoods & Gang Div., SBN 180355
JONATHAN CRISTALL,
Superv. Assistant City Attorney, SBN 191935
LIRA FORMAN-ECHOLS,
Asst. Superv. Deputy City Attorney, SBN 184135
ADAM Z. BIERMAN, Deputy City Attorney, SBN 287575
200 North Main Street, Room 966, Los Angeles, California 90012
Telephone: (213) 978-4087 Fax: (213) 978-8717
E-Mail: adam.bierman@lacity.org

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

NOV 07 2018

Sherril R. Carter, Executive Officer/Clerk of Court

By: Kristina Vargas, Deputy

Attorneys for Plaintiff

NO FEE – GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

MAHMUD ULKARIM, an individual; and
DOES 1 through 50, inclusive,

Defendants.

Case No.:

18STCVO4051

**COMPLAINT FOR ABATEMENT AND
INJUNCTION**

[CIVIL CODE SECTION 3479, *ET*
SEQ.; BUS. & PROF. CODE SECTION
17200, *ET* SEQ.]

(Unlimited Action)

PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

I. INTRODUCTION

1. Plaintiff, the People of the State of California ("Plaintiff"), brings this action ("Action") to abate an increasingly dangerous and volatile gang-related public nuisance existing at a mixed-use property located at 7014 South Vermont Avenue, Los Angeles, California 90044 (hereinafter, the "Property") in the Vermont-Slauson neighborhood of South Los Angeles. Defendant Mahmud Ulkarim ("Defendant") owns and manages the Property, which is located less than 600 feet from two elementary schools, a public park, and a church.

1 Plaintiff brings this action pursuant to: (1) the Public Nuisance Law ("PNL"), California Civil
2 Code section 3479, *et seq.*; and (2) the Unfair Competition Law ("UCL"), California Business
3 and Professions Code section 17200, *et seq.*

4 2. Members and associates of an active and violent criminal street gang called
5 Menlo Gangster Crips ("MGC") use the Property as a gang stronghold. The Property and its
6 surroundings have been the site of several brazen shootings recently, including one that left a
7 man paralyzed from the neck down. It has also been the site of narcotics sales, assaults,
8 robbery, the arrests of gang members in possession of guns, and the apprehension of fugitive
9 gang members wanted for violent crimes. Los Angeles Police Department ("LAPD") officers
10 regularly receive complaints from community members about violence and criminal activity at
11 and connected to the Property. These complaints likely reflect only a fraction of the incidents at
12 the Property due to fear in the community that the gang will violently retaliate against
13 individuals who contact law enforcement.

14 3. Members of the gang use the Property to maintain control of their "turf"¹ by
15 assuming an intimidating presence at the Property and using it to engage in criminal and
16 violent acts for the benefit of the gang. MGC members and associates donning MGC gang
17 attire loiter inside and directly in front of the Property on a nearly constant basis, smoking
18 marijuana and drinking alcohol in groups of up to a dozen people at a time. According to LAPD
19 officers familiar with the Property, the gang will always assign at least one member to conceal
20 a firearm when they loiter at the Property to protect themselves from and/or attack rival gang
21 members. Because of MGC's continual presence at the Property and its reputation as an MGC
22 stronghold, rival gangs target the Property when they want to attack MGC.

23 4. Criminal and violent nuisance activity occurs at and immediately around the
24 Property's two commercial storefronts, which are being operated as an unlicensed mini market
25 and an illegal, makeshift marijuana dispensary. The business operators at both storefronts are
26 connected to the MGC gang, and members and associates comfortably use both storefronts to
27

28

¹ MGC's "turf" spans to and includes Vermont Avenue to the west, Menlo Avenue to the east, Florence Avenue to the south and Gage Avenue to the north. The Property is located squarely within these boundaries.

1 further their objectives. Specifically, MGC members and associates routinely utilize the
2 storefronts to hide from police, conceal weapons, commit acts of violence, and carry out other
3 crimes for the gang. In just the past six weeks, there have been at least two documented
4 shootings at/related to the mini market. In the past six months, LAPD officers have recovered
5 at least eight handguns from inside and immediately around the two commercial storefronts.
6 LAPD officers often find fugitive gang members at the Property. In one recent example, officers
7 discovered and apprehended an MGC gang member wanted for attempted murder who was
8 hiding in the mini market's back room and whose father operates the mini market. MGC
9 members and associates also have access to and regularly use the Property's large parking lot
10 just north of the mini market.

11 5. Defendant has a history of leasing the storefronts at his Property to tenants that
12 use them for illegal nuisance purposes. Before leasing to the current tenants, the Defendant
13 leased one of the storefronts to a different illegal marijuana dispensary, for which he faced
14 criminal charges, and the other unit to a market operating as a front for narcotics sales,
15 including cocaine, methamphetamine, and heroin. It is unconscionable that given this history of
16 problematic tenancies at the Property, Defendant has leased the storefronts to a gang-
17 controlled mini market and yet another illegal marijuana dispensary.

18 6. Plaintiff understands that Defendant has possibly initiated the eviction process for
19 both current tenants, as he did with the previous problematic tenants. This does not go far
20 enough to protect the community, and Plaintiff has no faith that Defendant will act responsibly
21 when renting the storefronts to the next tenants. The very real risk to public safety resulting
22 from Defendant's imprudence necessitates this Action. As the recent history shows, Defendant
23 is either unable or unwilling to properly screen and actively supervise his commercial tenants.
24 The intent of this nuisance abatement prosecution is to compel immediate and substantial
25 action to abate the public nuisance conditions at the Property and protect the health and safety
26 of the community before someone gets killed. To that end, this Action seeks an order requiring
27 basic physical and managerial improvements at the Property including, but not limited to,
28 robust tenant screening, remotely monitorable surveillance cameras, lighting, security, and the

1 retention of a third-party property management company to oversee the implementation and
2 maintenance of the above improvements.

3 **II. THE PARTIES AND THE PROPERTY**

4 **A. Plaintiff**

5 7. Plaintiff, the People of the State of California, is the sovereign power of the State
6 of California authorized in California Code of Civil Procedure section 731 to bring actions to
7 abate public nuisances. In addition, because the City of Los Angeles has a population in
8 excess of 750,000, California Business and Professions Code section 17204 authorizes
9 Plaintiff to prosecute actions for relief under California Business and Professions Code section
10 17200, *et seq.* for unfair competition.

11 **B. Defendant**

12 8. Defendant Mahmud Ulkarim, an individual, has owned and managed the
13 Property since he purchased it in 2014. According to public records, Defendant owns at least
14 three other rental properties in the city of Los Angeles. Defendant is currently on summary
15 probation for repeatedly renting his properties to illegal marijuana dispensaries.²

16 9. The true names and capacities of defendants sued herein as DOES 1 through
17 50, inclusive, are unknown to Plaintiff, who therefore sues said defendants by such fictitious
18 names. When the true names and capacities of said defendants have been ascertained,
19 Plaintiff will ask leave of the court to amend this complaint and to insert in lieu of such fictitious
20 names the true names and capacities of said fictitiously named defendants.

21 **C. The Property**

22 10. The Property is a mixed-use property with two commercial storefronts facing
23 Vermont Avenue and three residential units located above and behind the commercial units.
24 As stated herein, the two commercial units are being used by tenants as a mini-market and an
25 illegal, makeshift marijuana dispensary, respectively. The Property also features a large
26

27 ² Defendant faced a criminal filing for leasing to an illegal marijuana dispensary at the Property in February 2016.
28 At the time of that filing, Defendant was already facing a pending criminal filing for leasing to an illegal marijuana
dispensary at a different property that Defendant owns located at 6629 S. Hoover St., Los Angeles, CA 90044.
Both cases were resolved together resulting in Defendant's probation.

1 parking lot north of the buildings. The Property's common address is 7014 South Vermont
2 Avenue, Los Angeles, CA 90044, in South Los Angeles.³

3 **III. THE PUBLIC NUISANCE LAW**

4 11. "Abatement of nuisances is a long established and well recognized exercise of
5 the state's police power." (*People ex rel. Hicks v. Sarong Gals* (1974) 42 Cal.App.3d 556, 563;
6 *People ex rel. Bradford v. Barbieri* (1917) 33 Cal.App. 770, 775-778.) Civil Code section 3479
7 defines a nuisance as "[a]nything which is injurious to health, including, but not limited to, the
8 illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction
9 to the free use of property, so as to interfere with the comfortable enjoyment of life or
10 property" (*Bakersfield v. Miller* (1966) 64 Cal.2d 93, 99 ["The Legislature has defined in
11 general terms the word 'nuisance' in Civil Code section 3479"].)

12 12. Civil Code section 3480 defines a public nuisance as "one which affects at the
13 same time an entire community or neighborhood, or any considerable number of persons,
14 although the extent of the annoyance or damage inflicted upon individuals may be unequal."

15 13. In particular, drug dealing, loitering, consumption of alcohol and illegal drugs, and
16 boisterous conduct which creates a hooligan-like "atmosphere" constitutes a public nuisance.
17 (*People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1120.)

18 14. Under Civil Code section 3491, "The remedies against a public nuisance are:
19 1. Indictment or information; 2. A civil action; or, 3. Abatement." "An abatement of a nuisance is
20 accomplished by a court of equity by means of an injunction proper and suitable to the facts of
21 each case." (*Sullivan v. Royer* (1887) 72 Cal. 248, 249.)

22 15. A successive owner of a property is liable for a continuing nuisance at the
23 property that started under a former owner if the successive owner neglects to abate the
24 nuisance. (Cal. Civ. Code, § 3483.) A repetitive pattern of nuisance activity that began under a
25

26
27 ³ The Property's legal description is "THE NORTH 5 FEET OF LOT 70, AND ALL OF LOTS 71 AND 72 OF
28 TRACT NO. 8210, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA,
AS PER MAP RECORDED IN BOOK 91 PAGE 56 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER
OF SAID COUNTY." The Property's Assessor's Parcel Number is 6013-003-020. The mailing addresses at the
Property include 7012, 7014, 7016, and 7018 S. Vermont Avenue, Los Angeles, CA 90044.

1 former owner will be presumed to continue, repeat, and recur under a subsequent
2 owner. (See Cal. Civ. Code, § 3547 ["A thing continues to exist as long as is usual with things
3 of that nature."].)

4 16. Code of Civil Procedure section 731 authorizes a city attorney to bring an action
5 to enjoin or abate a public nuisance. It provides, in pertinent part, "A civil action may be
6 brought in the name of the people of the State of California to abate a public nuisance . . . by
7 the city attorney of any town or city in which the nuisance exists." (*Ibid.*)

8 IV. THE UNFAIR COMPETITION LAW

9 17. The UCL, at Business and Professions Code section 17200 *et seq.*, forbids any
10 business practices otherwise forbidden by law, be it criminal, federal, state, municipal,
11 statutory, regulatory, or court-made. As the California Supreme Court has explained, the UCL
12 "'borrows' violations of other laws and treats them as unlawful practices independently
13 actionable under section 17200 *et seq.*" (*Hewlett v. Squaw Valley Ski Corp.* [(1997)] 54 Cal.
14 App. 4th [499,] 531-532, citing *Saunders v. Superior Court* [(1994)] 27 Cal. App. 4th [832,] 838-
15 839[.])" (*South Bay Chevrolet v. General Motors Acceptance Corp.* (1999) 72 Cal.App.4th 861,
16 880.)

17 18. As proscribed by the UCL, "[a]n 'unlawful business activity' includes 'anything
18 that can properly be called a business practice and that at the same time is forbidden by law.'
19 [Citation.]" (*People v. McKale* (1979) 25 Cal.3d 626, 632.) Although no case has specifically
20 been called upon to define the term "business" in section 17200, courts have frequently given
21 a broad reading to the provisions of the UCL so as to effect its broad remedial purposes. (See,
22 e.g., *Barquis v. Merchants Collection Ass'n* (1972) 7 Cal.3d 94, 111-113.) The ownership of a
23 property that is rented out to commercial and residential tenants is, axiomatically, a business.
24 Thus, when a property owner conducts, maintains, or permits a nuisance that is unlawful under
25 the PNL to exist on the premises of such a business, it is a violation of the UCL. (See *City and*
26 *County of San Francisco v. Sainez* (2000) 77 Cal.App.4th 1302, 1305-1308 [affirming UCL
27 penalties for building code violations at multi-unit rental property].) Defendant, who owns and
28 operates several rental properties in the City of Los Angeles, is the quintessential nonresident

1 owner operating the Property for profit.

2 19. Moreover, the UCL casts a broad net. "Any person who engages, has engaged,
3 or proposes to engage in unfair competition may be enjoined in any court of competent
4 jurisdiction." (Bus. & Prof. Code, § 17203.) The term person includes "natural persons,
5 corporations, firms, partnerships, joint stock companies, associations and other organizations
6 of persons." (Bus. & Prof. Code, § 17201.) The courts have expanded section 17200's net
7 beyond direct liability to include common law doctrines of secondary liability where the liability
8 of each defendant is predicated on his or her personal participation in the unlawful practices.
9 (*People v. Toomey* (1984) 157 Cal.App.3d 1, 14-15.)

10 20. Civil actions under the UCL may be brought in the name of the People of the
11 State of California by any city attorney of a city having a population in excess of 750,000 (Bus.
12 & Prof. Code, § 17204), such as the City of Los Angeles. A public entity can sue pursuant to
13 section 17200 based on violations of its own municipal code, state law, or other local
14 ordinance. (See *People v. Thomas Shelton Powers, M.D., Inc.* (1992) 2 Cal.App.4th 330, 338-
15 339.)

16 21. Parties engaging in violations of the UCL may be enjoined in any court of
17 competent jurisdiction. (Bus. & Prof. Code, § 17203.) A court may make such orders or
18 judgments, including the appointment of a receiver, as may be necessary to prevent the use or
19 employment by any person of any practice constituting unfair competition. (*Ibid.*)

20 **FIRST CAUSE OF ACTION FOR PUBLIC NUISANCE**

21 **[Civil Code section 3479, et seq. –**

22 **Against Defendant and DOES 1 through 50]**

23 22. Plaintiff incorporates by reference Paragraphs 1 through 21 of this complaint and
24 makes them part of this First Cause of Action as though fully set forth herein.

25 23. Since at least 2016, Defendant, and DOES 1 through 50, have owned, operated,
26 managed, and used, and/or directly or indirectly permitted to be occupied and used, the
27 Property in such a manner as to constitute a public nuisance in accordance with Civil Code
28 sections 3479 and 3480. The public nuisance, as described herein, is injurious to health,

1 indecent or offensive to the senses, and/or an obstruction to the free use of property, so as to
2 substantially and unreasonably interfere with the comfortable enjoyment of life or property by
3 those persons living on the Property and in the surrounding community. The public nuisance
4 consists of, but is not limited to, the regular, menacing, intimidating, violent, and disorderly
5 presence of gang members and associates at the Property; the occurrence of violent crime
6 including gunfire that has resulted in serious injury to persons on the Property; the presence of
7 dangerous, illegally possessed firearms at the Property; the tendency of the Property to attract
8 gunfire and other menacing and dangerous conduct from rival gangs *because of* the presence
9 of gang members and associates at the Property; and the occurrence of other gang-related
10 crime at the Property.

11 24. Defendant, who owns and controls the Property, and DOES 1 through 50, knew
12 or should have known about the nuisance activity at the Property and failed to take reasonable
13 steps to prevent or abate the ongoing nuisance, and as a result of this failure and his
14 mismanagement of the Property, he has caused and/or contributed to a serious threat to the
15 general health, safety, and welfare of the law-abiding tenants at the Property and persons in
16 the surrounding community.

17 25. Unless Defendant, and DOES 1 through 50, are restrained and enjoined by order
18 of this Court, they will continue to use, occupy, and maintain, and to aid, abet, or permit,
19 directly or indirectly, the use, occupation, and maintenance of the Property, together with the
20 fixtures and appurtenances located therein, for the purpose complained of herein, to the great
21 and irreparable damage of Plaintiff and in violation of California law.

22 **SECOND CAUSE OF ACTION FOR UNFAIR COMPETITION**

23 **[Business and Professions Code section 17200, *et seq.* –**

24 **Against Defendant and DOES 1 through 50]**

25 26. Plaintiff hereby incorporates by reference paragraphs 1 through 25 of this
26 Complaint and makes them part of this Second Cause of Action, as if fully set forth herein.

27 27. Ownership and operation of the Property is a business. When the owner and/or
28 manager of such a business violates the PNL such that a nuisance exists and flourishes at the

1 business's premises, as alleged herein, it is also a violation of the UCL.

2 28. Defendant and DOES 1 through 50 have violated the UCL by conducting,
3 maintaining, and/or permitting, directly or indirectly, a nuisance in violation of the PNL at the
4 Property, as alleged herein.

5 29. Plaintiff has no adequate remedy at law, and unless Defendant and DOES 1
6 through 50 are restrained by this Court they will continue to commit unlawful business
7 practices or acts, thereby causing irreparable injury and harm to the public's welfare.

8 **PRAYER**

9 **WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ORDER, ADJUDGE, AND**
10 **DECREE AS FOLLOWS:**

11 **AS TO THE FIRST CAUSE OF ACTION**

12 30. That the Property, together with the fixtures and moveable property therein and
13 thereon, be declared a public nuisance and be permanently abated as such in accordance with
14 Civil Code section 3491.

15 31. That Defendant and his agents, officers, employees, and anyone acting on their
16 behalf, and their heirs and assignees, be preliminarily and perpetually enjoined from operating,
17 conducting, using, occupying, or in any way permitting the use of the Property as a public
18 nuisance. Such orders should include, but not be limited to, physical and managerial
19 improvements to the Property including: comprehensive tenant screening and supervision,
20 increased lighting in the Property's common areas, "No Trespassing" and/or "No Loitering"
21 signs posted throughout the Property, prompt removal of gang graffiti, internet-connected
22 video cameras with remote access for LAPD, security guards, termination of problematic
23 tenancies, and the retention of a third-party on-site property management company to oversee
24 the implementation and maintenance of the above improvements.

25 32. That Plaintiff be awarded such costs as may occur in abating said nuisance at
26 the Property and such other costs as the Court may deem just and proper.

27 33. That Plaintiff be granted such other and further relief as the Court deems just and
28 proper, including, but not limited to, closure of the Property.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9

35. That Defendant, as well as his agents, heirs, successors, and anyone acting on their behalf, be permanently enjoined from maintaining, operating, or permitting any unlawful or unfair business acts or practices in violation of Business and Professions Code section 17200.

37. That, pursuant to Business and Professions Code section 17206, Defendant be assessed a civil penalty of \$2,500 for each and every act of unfair competition. Since Defendant has engaged in a continuing nuisance since late 2016, each day constitutes an act of unfair competition and Defendant should be assessed a civil penalty not to exceed \$1.74 million dollars.

///

///

///

1 AS TO ALL CAUSES OF ACTION

2 39. That Plaintiff recover the amount of the filing fees and the amount of the fee for
3 the service of process or notices which would have been paid but for Government Code
4 section 6103.5, designating it as such. The fees may, at the Court's discretion, include the
5 amount of the fees for certifying and preparing transcripts.

6 40. That Plaintiff be granted such other and further relief as the Court deems just and
7 proper.

8
9
10 DATED: November 7, 2018

Respectfully submitted,

11 MICHAEL N. FEUER, City Attorney

12 JONATHAN CRISTALL, Supervising Assistant City Attorney

13
14
15 By:



16 ADAM Z. BIERMAN, Deputy City Attorney
17 Attorneys for Plaintiff, THE PEOPLE OF THE STATE
18 OF CALIFORNIA
19
20
21
22
23
24
25
26
27
28